

**KENTUCKY PERSONNEL BOARD  
MINUTES OF JANUARY 10, 2014**

1. The regular monthly meeting of the Kentucky Personnel Board was called to order by Chairman Doug Sapp on January 10, 2014, at approximately 9:30 a.m., 28 Fountain Place, Frankfort, Kentucky.

Board Personnel Present:

Wayne "Doug" Sapp, Chairman  
Larry B. Gillis, Vice Chairman  
David B. Stevens, Member  
David F. Hutcheson, Jr., Member  
Tommy W. Chandler, Member  
Donald W. "Don" Blevins, Member  
Ramona Herndon, Member  
Mark A. Sipek, Executive Director and Secretary  
Boyce A. Crocker, General Counsel  
Linda R. Morris, Administrative Section Supervisor  
Cynthia Perkins, Administrative Specialist

2. **READING OF THE MINUTES OF REGULAR MEETING HELD DECEMBER 13, 2013**

The minutes of the last Board meeting had been previously circulated among the members. Chairman Sapp asked for additions or corrections. Mr. Gillis moved to approve the minutes, as submitted. Mr. Hutcheson seconded and the motion carried 7-0. The Board members signed the minutes.

3. **EXECUTIVE DIRECTOR'S REPORT**

Mr. Sipek stated that the Board has a full agenda and he would keep his report brief.

Mr. Sipek noted that Judge Tommy Chandler was reappointed to the Personnel Board and was sworn in by the Hon. Boyce A. Crocker, General Counsel, prior to the beginning of the meeting. Chairman Sapp expressed his gratitude to Judge Chandler for returning for a second term on the Board.

At the conclusion of Mr. Sipek's report, Chairman Sapp called for the Personnel Cabinet's report.

#### 4. **PERSONNEL CABINET'S REPORT**

The Hon. Dinah Bevington, Executive Director, came forward to present the Personnel Cabinet's report.

Ms. Bevington mentioned that W2s will be mailed and postmarked by January 31, 2014.

##### Requested Changes to 101 KAR 1:325, Initial Probationary Periods:

Ms. Bevington advised that prior to approving extended probationary periods, the Cabinet's Compensation and Classification Branch reviews the requests to ensure they are the only agency using that classification and whether the classification is consistent with others in that series.

After some discussion, Mr. Hutcheson moved to accept the amendments to 101 KAR 1:325. Dr. Stevens seconded and the motion carried 7-0.

At the conclusion of the Personnel Cabinet's report, Chairman Sapp called the parties forward for oral argument.

#### 5. **ORAL ARGUMENTS**

##### A. Paul Holbrook v. Justice and Public Safety Cabinet (Corrections) (2012-156)

Present for oral arguments were counsel for the Appellant, Hon. Elmer George, and counsel for Appellee, the Hon. Amber Arnett. After presenting oral arguments, the parties answered questions from the Board.

##### B. ~~Paula Watts v. Cabinet for Health and Family Services~~ (2012-255) (Request by Appellant - **Request Withdrawn**)

#### 6. **MOTIONS**

##### A. Wade Hester v. Cabinet for Health and Family Services (2012-271) --Appellee's Motion to File Late Exceptions

Mr. Blevins moved to deny Appellee's Motion to File Late Exceptions. Mr. Gillis seconded and the motion carried 7-0.

## 7. INVESTIGATIONS

- A. Request for investigation referred by Executive Branch Ethics Commission against Public Service Commission **Tabled from December meeting**  
--Response of Public Service Commission

The Hon. Katie Gabhart, General Counsel for the Executive Branch Ethics Commission, and Mr. Jeff Derouen, Executive Director for the Public Service Commission, were present.

After some discussion, Mr. Hutcheson moved to investigate this matter. Mr. Gillis seconded and the motion carried 7-0.

- B. Anonymous Request for investigation against Department of Agriculture  
--Response of Department of Agriculture

The Hon. Holly VonLuehrte, Chief of Staff, and the Hon. Dan Egbers, contract attorney for the Department of Agriculture were present.

After some discussion, Judge Chandler moved to decline investigation of this matter. Mr. Hutcheson seconded and the motion carried 7-0.

## 8. CLOSED SESSION

Mr. Blevins moved that the Board go into Executive Session for the purposes of discussing complaints, proposed or pending litigation, and deliberations regarding individual adjudications. Ms. Herndon seconded. Chairman Sapp stated that the motion had been made and seconded for the Personnel Board to retire into closed Executive Session, passed by a majority vote of the members present, with enough members present to form a quorum. Pursuant to KRS 61.810(1) (c), (f), and (j), the Kentucky Open Meetings Act, the Board will now retire into closed Executive Session. Specific justification under the Kentucky Open Meetings Act for this action are as follows, because there will be discussion of proposed or pending litigation against or on behalf of the Board; and deliberations regarding individual adjudication. The motion carried 7-0. (10:30 a.m.)

Mr. Hutcheson moved to return to open session. Dr. Stevens seconded and the motion carried 7-0. (11:15 a.m.)

9. **CASES TO BE DECIDED**

The Board reviewed the following cases. At that time, the Board considered the record including the Hearing Officers' findings of fact, conclusions of law and recommendations, any exceptions and responses which had been filed, and oral arguments where applicable.

- A. Paul Holbrook v. Justice and Public Safety cabinet (Corrections) (2012-156)

Mr. Blevins moved to note Appellee's exceptions and oral arguments and to defer this matter to the next Board meeting. Dr. Stevens seconded and the motion carried 7-0.

- B. Paula Watts v. Cabinet for Health and Family Services (2012-255)

Mr. Gillis moved to note Appellant's motion for oral argument (withdrawn) and Appellee's response and to accept the recommended order dismissing the appeal. Ms. Herndon seconded and the motion carried 7-0.

- C. Wade Hester v. Cabinet for Health and Family Services (2012-271)  
**Deferred from December meeting**

Mr. Hutcheson moved to accept the Final Order sustaining the appeal to the extent a five-day suspension was reduced to a two-day suspension, as attached to the minutes. Judge Chandler seconded and the motion carried 7-0.

- D. Ashley Lewis v. Cabinet for Health and Family Services (2013-028)  
**Deferred from December meeting**

Mr. Hutcheson moved to note Appellant's exceptions and Appellee's response and to accept the Final Order sustaining the appeal, as attached to the minutes. Mr. Gillis seconded and the motion carried 7-0.

- E. Debra Vahle v. Cabinet for Health and Family Services (2012-148)  
**Deferred from December meeting**

Judge Chandler moved to note Appellant's exceptions, Appellee's response and oral arguments and to accept the Final Order sustaining the appeal to the extent the dismissal was rescinded and modified to a thirty-day suspension, as attached to the minutes. Dr. Stevens seconded and the motion carried 7-0.

- F. Robert Bray v. Justice and Public Safety Cabinet (Corrections) (2013-027)  
(Promotional reversion – appeal dismissed)

Ms. Herndon moved to accept the recommended order dismissing the appeal. Dr. Stevens seconded and the motion carried 7-0.

- G. Linda Carnes v. Transportation Cabinet (2012-102)

Mr. Gillis moved to accept the recommended order dismissing the appeal. Ms. Herndon seconded and the motion carried 7-0.

- H. Patricia Crawford v. Justice and Public Safety Cabinet (Juvenile Justice)  
(2013-109)

Mr. Hutcheson moved to accept the recommended order dismissing the appeal. Judge Chandler seconded and the motion carried 7-0.

- I. Steven Crawford v. Justice and Public Safety Cabinet (Corrections) (2013-072)

Mr. Gillis moved to accept the recommended order dismissing the appeal. Mr. Blevins seconded and the motion carried 7-0.

- J. Stacy Johnson v. Transportation Cabinet (2013-185)

Judge Chandler moved to accept the recommended order dismissing the appeal. Mr. Gillis seconded and the motion carried 7-0.

- K. Paul Scott v. Finance and Administration Cabinet (2013-015)

Mr. Hutcheson moved to accept the recommended order dismissing the appeal. Dr. Stevens seconded and the motion carried 7-0.

**Show Cause Orders – Responses Filed**

The following case had a show cause order entered by the hearing officer recommending that the appeal be dismissed for failure to timely prosecute unless a statement was filed by the Appellant stating sufficient cause to excuse their failure to appear at the scheduled hearing. Appellant filed a response to the show cause order and Appellee filed a Response to Appellant's Statement.

- L. Walter Rafferty v. Justice and Public Safety Cabinet (2013-081)

Mr. Blevins moved to remand this matter back to the active docket for further proceedings. Judge Chandler seconded and the motion carried 6-1, with Mr. Hutcheson opposing.

### **Show Cause Orders - Appeals Dismissed – No Response Filed**

The following cases had a show cause order entered by the hearing officer recommending that the appeals be dismissed for failure to timely prosecute unless a statement was filed by the Appellants stating sufficient cause to excuse their failure to appear at the scheduled hearing. There were no responses submitted by the Appellants to the show cause orders.

- M. Dale Honeycutt v. Department of Veterans' Affairs
- N. Joseph Serpico v. Justice and Public Safety Cabinet (Corrections)
- O. Brandon Smith v. Justice and Public Safety Cabinet (Corrections)
- P. Diane Williams v. Cabinet for Health and Family Services
- Q. Joanna Wood v. Justice and Public Safety Cabinet (Juvenile Justice)

Dr. Stevens moved to find that the Appellants had not responded to the show cause orders and that the recommended orders be accepted *en bloc* dismissing the appeals for failure to timely prosecute the appeals. Ms. Herndon seconded and the motion carried 7-0.

### **10. WITHDRAWALS**

Mr. Blevins moved to consider the following withdrawals of appeals *en bloc* and to accept the withdrawals and dismiss the appeals. Ms. Herndon seconded and the motion carried 7-0.

- A. Charles Ray Kitchen v. Tourism, Arts and Heritage Cabinet (Parks)
- B. Denisha Johnson v. Cabinet for Health and Family Services (2 appeals)

### **11. SETTLEMENTS**

Mr. Hutcheson moved to accept the settlements *en bloc* as submitted by the parties, and to sustain the appeals to the extent set forth in the settlements. Mr. Blevins seconded and the motion carried 7-0.

- A. Novella Epperson v. Cabinet for Health and Family Services
- B. Pamela Farmer v. Finance and Administration Cabinet
- C. Kassondra Harris v. Cabinet for Health and Family Services (mediated)
- D. Darin Wilder v. Justice and Public Safety Cabinet (Corrections)

12. **OTHER**

Mr. Sipek stated that the proposed amendments to KRS 18A.0551, Personnel Board Elections – Procedures, would be postponed until after the current election is completed in late June 2014.

Mr. Hutcheson advised that staff should be given direction to investigate the matter referred by the Executive Branch Ethics Commission. Mr. Sapp stated that staff should inform the Ethics Commission of the Board's approval to investigate and to present a plan of action at the next Board meeting.

There being no further business, Mr. Gillis moved to adjourn. Ms. Herndon seconded and the motion carried 7-0. (11:30 a.m.)

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Wayne D. Sapp, Chairman

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Larry Gillis, Vice Chairman

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David B. Stevens, Member

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David F. Hutcheson, Jr., Member

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Tommy W. Chandler, Member

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Donald W. Blevins, Member

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Ramona Herndon, Member